

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gregory Joss	Team: Team # 3	CCRB Case #: 201110525	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/10/2011 6:00 PM	Location of Incident: Beverley Road and East 18th Street	Precinct: 70	18 Mo. SOL 2/10/2013	EO SOL 2/10/2013	
Date/Time CV Reported Wed, 08/10/2011 8:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/15/2011 11:35 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Richard Guerrieri	01640	948039	070 PCT
2. LT Timothy Anderson	00000	918695	070 PCT
3. POM Leon Batson	29265	938037	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Desposito	01095	948876	070 PCT
2. SGT Sharon Andrews	00300	923511	070 PCT
3. POM Richard Conte	09725	948807	070 PCT
4. POM Rodolph Exil	06792	948945	070 PCT
5. POM Anthony Digerolamo	03876	947907	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Richard Guerrieri	Force: Officer Richard Guerrieri struck § 87(2)(b) with an object.	
B.POM Richard Guerrieri	Abuse: Officer Richard Guerrieri refused to provide his name and shield number to § 87(2)(b)	
C.POM Leon Batson	Abuse: Officer Leon Batson searched the car in which § 87(2)(b) was an occupant.	
D.LT Timothy Anderson	Discourtesy: Lieutenant Timothy Anderson spoke rudely to individuals.	

### Case Summary

On August 10, 2011, § 87(2)(b) filed this complaint on behalf of her son, § 87(2)(b) with the Internal Affairs Bureau (IAB log # 11-36598) (Encl. 5A-5B) via telephone. § 87(2)(b) witnessed part of this incident. The case was forwarded to the Civilian Complaint Review Board on August 15, 2011 (Encl. 6A-6C).

On August 10, 2011 at approximately 6:00 p.m. in the vicinity of Beverly Road and East 18<sup>th</sup> Street in Brooklyn, § 87(2)(b) and his brother, § 87(2)(b) along with their friend § 87(2)(b) and another unidentified individual, were stopped by officers for being parked in front of a fire hydrant. § 87(2)(b) was issued a summons for parking in front of a fire hydrant by PO Richard Guerrieri of Patrol Borough Brooklyn South. § 87(2)(b) was subsequently arrested by PO Guerrieri for § 87(2)(b). § 87(2)(b) was also arrested at the location by PO Richard Conte of Patrol Borough Brooklyn South for § 87(2)(b). The following allegations resulted from the officers' actions:

- **Allegation A: Force – Officer Richard Guerrieri struck § 87(2)(b) with an object.** § 87(2)(g)

§ 87(2)(g)

- **Allegation B: Abuse of Authority – Officer Richard Guerrieri refused to provide his name and shield number to § 87(2)(b) § 87(2)(g)**

§ 87(2)(g)

- **Allegation C: Abuse of Authority – Officer Leon Batson searched the vehicle in which § 87(2)(b) was an occupant.** § 87(2)(g)

§ 87(2)(g)

- **Allegation D: Discourtesy – Lieutenant Timothy Anderson spoke rudely toward individuals.** § 87(2)(g)

§ 87(2)(g)

### Results of Investigation

#### Civilian Statements

##### Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of this incident. He is a black male with black hair and brown eyes. He is 5'10" tall and weighs 320 pounds.

##### Statements to Medical Personnel

The ambulance call report prepared for § 87(2)(b) on § 87(2)(b) indicates that he told medical personnel that a police officer threw an ID in his eye. His chief complaint was listed as, "My eye hurts." He complained of pain and blurry vision in his right eye due to an officer throwing an ID into his eye (Encl. 32A-32Q).

On August 10, 2011, § 87(2)(b) was treated at § 87(2)(b). His chief complaint was that a photo ID was thrown into his right eye. § 87(2)(b) complained of blurry vision, redness, pain, and tearing (Encl. 32A-32Q).

### **Notice of Claim**

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim against the City of New York, the New York City Police Department, and John Doe Police Officers. Details of the claim are consistent with § 87(2)(b) statements to the CCRB (Encl. 41A-41N)

### **CCRB Statement**

On September 9, 2011, § 87(2)(b) provided the CCRB with a telephone statement (Encl. 7A) and on September 28, 2011, § 87(2)(b) was formally interviewed at the CCRB (Encl. 8A-8G). § 87(2)(g) indicated in his telephone statement that he was initially stopped by three officers, whereas in his CCRB statement, he stated four officers were present for the initial stop. Furthermore, in his telephone statement, § 87(2)(b) did not allege that he, § 87(2)(b) or any other individuals were removed from his vehicle and frisked by officers.

On August 10, 2011 at approximately 6:00 p.m. in the vicinity of Beverly Road and East 18<sup>th</sup> Street in Brooklyn, § 87(2)(b) was in the passenger seat of his car; his brother, § 87(2)(b) was driving. § 87(2)(b) was parked in front of a fire hydrant while they waited for two of their friends. § 87(2)(b) car is a blue 2008 four-door Chrysler Sebring. The windows are tinted, but on the date of incident, all four of the door windows were rolled down. The rear window is tinted as well, but it is not completely blacked out. The area where they were parked is residential.

§ 87(2)(b) and § 87(2)(b) had been sitting in the parked car for approximately 20 minutes. During that time, § 87(2)(b) and § 87(2)(b) remained in their vehicle, but a few unidentified individuals did approach the car. The interactions with these unknown individuals only lasted a few minutes. § 87(2)(b) friends, § 87(2)(b) and “§ 87(2)(b) (legal name unknown) arrived and got into the vehicle.

Approximately one minute after § 87(2)(b) and § 87(2)(b) got into the car, a marked police van occupied by four uniformed officers pulled along the driver’s side of § 87(2)(b) car. All four officers exited the vehicle. PO1, identified by the CCRB through investigation as Sgt. Sharon Andrews of the 70<sup>th</sup> Precinct, was described as a black female, approximately 6’0” tall, thin build, dark hair, and in her mid-forties. PO2, identified by the CCRB through investigation as PO Richard Guerrieri of the 70<sup>th</sup> Precinct, was described as a white male, approximately 5’10” tall, average build, short hair, and in his early thirties. PO3 was described as a white male and no description was provided for PO4. The investigation determined that only three officers were initially at the location and that PO Rodolph Exil of the 70<sup>th</sup> Precinct was the officer partnered with Sgt. Andrews and PO Guerrieri.

Sgt. Andrews instructed all four of the occupants to exit the car and stand on the sidewalk. PO Guerrieri asked for § 87(2)(b) identification and he complied. PO Guerrieri and an unidentified officer then patted down § 87(2)(b) § 87(2)(b) and § 87(2)(b) stated that his friends and brother were saying something to the effect of, “You shouldn’t be doing this” and “this is illegal.” § 87(2)(b) could not distinguish between PO Guerrieri and the other officer with regard as to who frisked his friends and brother.

There were approximately 20 individuals gathered at the location watching and recording the incident. § 87(2)(b) mother, § 87(2)(b) and sister, § 87(2)(b) were across the street observing as well. § 87(2)(b) stated that no one from the crowd physically engaged the officers, but people were directing comments to the officers in the nature of, “You shouldn’t be doing that” and “this is wrong.”

PO Guerrieri gave § 87(2)(b) back his identification and they were instructed to get back into the vehicle. § 87(2)(b) and § 87(2)(b) returned to their vehicle, but § 87(2)(b) and § 87(2)(b) remained on the sidewalk. § 87(2)(b) heard Sgt. Andrews say, “Give him a ticket, he’s not supposed to be parked in front of the hydrant, give him a ticket.” PO Guerrieri issued § 87(2)(b) a summons and then threw his ID like a Frisbee, which spun and scraped across § 87(2)(b) right eyeball. § 87(2)(b) grabbed his

eye and exclaimed that he was hurt. He then got out of the car and called out to his mother explaining that the officer just threw an ID into his eye and told her to call an ambulance. § 87(2)(b) exited the vehicle on his own at the same time as § 87(2)(b) § 87(2)(b) § 87(2)(g) § 87(2)(b) previously stated that an officer instructed his brother to get out of the car. § 87(2)(b) described his demeanor and that of § 87(2)(b) as angry.

Prior to the ID hitting § 87(2)(b) in the eye, two additional marked police vehicles, occupied by four uniformed officers, arrived at the location. One of the officers, identified by the CCRB through investigation as Lt. Timothy Anderson of the 70<sup>th</sup> Precinct, was described as a white male, approximately 5'7" tall, average build, with white hair, and in his fifties. He was wearing a white uniformed shirt. Another officer, identified by the CCRB through investigation as PO Leon Batson of the 70<sup>th</sup> Precinct, was described as a black male with dreadlocks.

§ 87(2)(b) exited the vehicle and told PO Guerrieri that he had hit him in the eye. § 87(2)(b) then asked PO Guerrieri for his name and badge number. PO Guerrieri did not respond and acted like "he didn't care." At this point, § 87(2)(b) and § 87(2)(b) were still standing on the sidewalk, approximately 10 feet away, and did not engage with the officers.

§ 87(2)(b) could not describe the circumstances that led to his brother's arrest. He stated that he did not know what happened and that the officers "just wanted to arrest him." § 87(2)(b) did not see which officer handcuffed his brother, but stated that his brother did not try to resist and did not direct any comments towards the officers.

§ 87(2)(b) approached Lt. Anderson and asked why § 87(2)(b) was being arrested. § 87(2)(b) § 87(2)(b) stated that § 87(2)(b) was furious, but was not using any profanity towards the officers. § 87(2)(b) § 87(2)(b) does not know what, if anything, Lt. Anderson said in response. Officers were directing the crowd of people to disperse and they were compliant.

An ambulance arrived at the location because § 87(2)(b) had called for one after § 87(2)(b) told her he was struck in the eye. § 87(2)(b) was taken to § 87(2)(b) where he received eye drops and saw an eye specialist. The eye specialist examined § 87(2)(b) eye with a telescope and told him that he had a scratch on his cornea. § 87(2)(b) returned to the hospital on § 87(2)(b) because his vision was still blurry. The eye specialists again examined § 87(2)(b) eye and wrote him a prescription for Oflox. As of the date of this interview, § 87(2)(b) had not received any additional medical treatment for his eye.

§ 87(2)(b) stated that there was another car double parked in front of his car, and that § 87(2)(b) § 87(2)(b) and a female, identified by the CCRB through investigation as § 87(2)(b) were arrested following this incident. § 87(2)(b) stated that this happened after he was already in the ambulance and did not see the circumstances which led to their arrests. § 87(2)(b) stated that no one at the location had consumed any alcohol and there was no loud music playing.

§ 87(2)(b) indicated that he had video footage of the incident and stated he would send it to the CCRB via email. However, following his CCRB statement, § 87(2)(b) did not cooperate any further with this investigation.

**Victim:** § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of this incident. He is a black male with black hair and black eyes. He is 6'2" tall and weighs 180 pounds.

**CCRB Statement**

On December 28, 2011, § 87(2)(b) was interviewed at the Civilian Complaint Review Board (Encl. 9A-9F). His testimony is summarized below.

On August 10, 2011 at approximately 6:00 p.m., § 87(2)(b) was double parked on Beverly Road near East 18<sup>th</sup> Street in Brooklyn. § 87(2)(b) drives a beige 1995 4-door Nissan Maxima. The rear window and rear passenger windows are partially tinted. § 87(2)(b) was parked behind § 87(2)(b)

§ 87(2)(b) in front of a fire hydrant. § 87(2)(b)'s brother, § 87(2)(b) was in the passenger seat of § 87(2)(b)'s car. § 87(2)(b)'s friend, § 87(2)(b) was also present, as were § 87(2)(b) friends, "§ 87(2)(b) (legal name unknown) and § 87(2)(b) (a.k.a. "§ 87(2)(b)

§ 87(2)(b) had only been parked at the location for approximately five minutes. Prior to that, he was home and came directly to the location alone. He did not know how long § 87(2)(b) had been parked in front of the fire hydrant on Beverly Road. After § 87(2)(b) parked his car, he got out and stood at the rear of his car near the front of § 87(2)(b)'s car. They were not listening to music and were not obstructing traffic. As they waited to leave the location, their group grew to approximately ten people with additional people walking by their location and exchanging greetings.

A marked police van pulled up behind § 87(2)(b)'s car and two uniformed officers exited the vehicle and approached § 87(2)(b)'s window. PO1, identified by the CCRB through investigation as PO Rodolph Exil of the 70<sup>th</sup> Precinct, was described as a dark skinned black male, approximately 5'8" to 5'9" tall, average build, and 27 to 31 years old. PO2, identified by the CCRB through investigation as Sgt. Sharon Andrews of the 70<sup>th</sup> Precinct, was described as a dark skinned black female, approximately 6'2" tall, weighing more than 200 pounds, brown hair, brown eyes, and 28 to 30 years old.

§ 87(2)(b) was still standing at the rear of his car, § 87(2)(b) and § 87(2)(b) were seated in their car, and Ruth and § 87(2)(b) were standing on the sidewalk. § 87(2)(b) heard PO Exil ask for § 87(2)(b)'s and § 87(2)(b)'s identification, but could not hear what else, if anything, was being said between § 87(2)(b), § 87(2)(b) and PO Exil. § 87(2)(b) and § 87(2)(b) were sitting calmly in the car while they interacted with PO Exil.

The crowd of approximately ten people was simply standing, more than ten feet away, watching the interaction. People in the crowd were not engaging with the officers at all and were only talking amongst themselves.

PO Exil held onto § 87(2)(b)'s identification, but threw § 87(2)(b) ID like a Frisbee into the car and then returned to the police vehicle. Although § 87(2)(b) identified PO Exil as the officer who allegedly threw the ID, the investigation concluded that it was in fact PO Richard Guerrieri of the 70<sup>th</sup> Precinct who threw the ID. Sgt. Andrews remained by the driver's side window. § 87(2)(b) could not hear any conversation that provoked PO Guerrieri to throw the ID. § 87(2)(b) did not see the ID strike § 87(2)(b) from his vantage point, but shortly after the ID was thrown, § 87(2)(b) exited the vehicle and was holding his eye. § 87(2)(b)'s eye appeared to be red and watering. § 87(2)(b) exclaimed, "My eye, my eye."

§ 87(2)(b) walked over to his mother who had been standing across the street. § 87(2)(b) does not know when or how § 87(2)(b)'s mother came to be outside. PO Exil and Sgt. Andrews did not say anything to § 87(2)(b) as he walked away. § 87(2)(b) remained in his vehicle. The crowd was still speaking amongst themselves and was not engaging with the officers.

Approximately 2 to 3 minutes after § 87(2)(b) was hit in his eye, two additional marked police vehicles arrived at the location. Four uniformed officers exited the RMPs. One of the officers, identified by the CCRB through investigation as PO Leon Batson of the 70<sup>th</sup> Precinct, was described as a dark skinned black male, approximately 5'6" tall, stocky, with dreadlocks, and 30 years old. Another officer, identified by the CCRB through investigation as PO Richard Conte of the 70<sup>th</sup> Precinct, was described as a white male. PO Conte ordered § 87(2)(b) to get out of the car, and he complied. PO Exil then handcuffed § 87(2)(b) who was not saying anything other than asking the officers why he was being arrested. § 87(2)(b) was still across the street with his mother at this point. § 87(2)(b)'s mother did not engage with the officers at all.

Once § 87(2)(b) was handcuffed, the crowd became more "vibrant" and started asking the officers why § 87(2)(b) was getting arrested. § 87(2)(b), "§ 87(2)(b) and § 87(2)(b) were among this crowd.

Once § 87(2)(b) was placed into the police van, PO Batson instructed § 87(2)(b) to move his car. § 87(2)(b) was compliant and pulled his vehicle down Beverly Road and made a

right onto East 19<sup>th</sup> Street. No one else was in the car with him. A police vehicle followed him and when he turned onto East 19<sup>th</sup> Street, the officers, using their public address speaker, instructed him to pull over, which he did.

PO Batson approached § 87(2)(b)'s window, asked for his ID, and informed § 87(2)(b) that he had a broken taillight. PO Batson then ordered him out of the car and told § 87(2)(b) to stand at the rear of the car with PO Conte. § 87(2)(b) asked PO Conte why they pulled him over and PO Conte told him it was for a broken taillight. § 87(2)(b) did not state whether or not he had a broken taillight.

PO Batson then proceeded to search § 87(2)(b)'s car by going into the front and back seat areas. § 87(2)(b) could not provide any further details as to where specifically PO Batson was looking or searching in his vehicle. During this time, the crowd that had been gathered near § 87(2)(b)'s car moved towards § 87(2)(b)'s car. The crowd, of approximately 10 people, did not engage with any officers and were simply observing the incident. The crowd stood roughly 2 to 3 car lengths from where § 87(2)(b) had been stopped.

An additional marked police vehicle pulled up to the corner of Beverly Road and East 19<sup>th</sup> Street and two uniformed officers exited. One of the officers, identified by the CCRB through investigation as Lt. Timothy Anderson of Patrol Borough Brooklyn South, was described as a white male, approximately 5'5" to 5'6" tall, bald head, over 30 years old, and wearing a white uniformed shirt. The other officer, identified as PO Michael Desposito of Patrol Borough Brooklyn South, was described as a white male.

Lt. Anderson started yelling and cursing at the crowd, saying, "Get the fuck back" and "Get the fuck out of here." An individual, identified by the CCRB through investigation as § 87(2)(b) (no relationship to § 87(2)(b)) was in the crowd and Lt. Anderson pushed him to keep him back.

§ 87(2)(b) stated that § 87(2)(b) was not doing anything other than standing with the crowd. § 87(2)(b) was in the crowd and she asked § 87(2)(b) why he had been stopped. PO Desposito, who was also instructing the crowd to stay back, then placed § 87(2)(b) in handcuffs. PO Desposito did not make any specific statements to § 87(2)(b). § 87(2)(b) did not try to move her arms away from PO Desposito, but did turn and yell to the crowd to have someone inform her mother that she was being arrested. After § 87(2)(b) was handcuffed, the crowd got loud and started making comments towards the officers in the form of, "What are you doing?" and "You have no right to being doing this."

§ 87(2)(b) asked PO Conte why they were arresting § 87(2)(b) and stated that she had not done anything wrong. PO Batson then "rushed" up from behind § 87(2)(b) and placed him in handcuffs. § 87(2)(b) did not do anything with his body or resist being handcuffed. § 87(2)(b) was arrested, but he did not know what the charges were. At the time of this interview, § 87(2)(b)'s arrest records were sealed.

§ 87(2)(b) could not estimate how many police officers were at the location and could not provide any descriptions of any other officers.

**Witness:** § 87(2)(b)

- *Pedigree unknown.* § 87(2)(b) stated he is not related to § 87(2)(b) and did not know him. § 87(2)(b) knows § 87(2)(b) from the neighborhood.

**Telephone Statement**

On March 8, 2012, contact was established with § 87(2)(b) via telephone (Encl. 10A).  
§ 87(2)(g)

On August 10, 2011 at approximately 6:30 p.m. in the vicinity of Beverly Road and East 18<sup>th</sup> Street in Brooklyn, § 87(2)(b) was standing approximately six feet from § 87(2)(b) and § 87(2)(b)'s vehicle, videotaping the incident, but he could not hear the substance of the conversation between PO Guerrieri, § 87(2)(b) and § 87(2)(b). PO Guerrieri took § 87(2)(b)'s ID and threw it

into the car. The ID then struck § 87(2)(b) in the eye. § 87(2)(b) could not testify what prompted PO Guerrieri to throw the ID.

§ 87(2)(b) exited the vehicle and accused PO Guerrieri of hitting him in the eye with an ID. § 87(2)(b) also exited the vehicle and was angry and yelling about PO Guerrieri having thrown the ID at § 87(2)(b). § 87(2)(b) speculated that the officers were threatened by § 87(2)(b)'s behavior. § 87(2)(b) was subsequently arrested.

Two additional marked vehicles and six additional uniformed male officers responded to the location. Lt. Anderson of the 70<sup>th</sup> Precinct instructed the crowd, of approximately 20 individuals, to leave the location. § 87(2)(b) stated that the crowd was mostly talking amongst themselves and not engaging with the officers. § 87(2)(b) did not have any personal interactions with any officers.

The CCRB requested that § 87(2)(b) email the video footage of the incident to the CCRB. On March 19, 2012 and April 3, 2012, the undersigned investigator attempted to contact § 87(2)(b) via telephone and left a voicemail message requesting that he email the CCRB the video footage of the incident. On April 17, 2012, contact was established with § 87(2)(b) via telephone. He was scheduled to appear at the CCRB on April 24, 2012. However, § 87(2)(b) failed to appear at this appointment and did not contact the CCRB to cancel or reschedule. On April 24, 2012, a missed appointment letter was sent to § 87(2)(b) and was not returned to the CCRB by the United States Postal Service. On May 1, 2012, contact was established via telephone with § 87(2)(b). He was scheduled to appear at the CCRB on May 7, 2012, but again, § 87(2)(b) failed to appear and did not contact the agency to cancel or reschedule. As of this date, § 87(2)(b) has not contacted the CCRB regarding this incident.

### Attempts to Contact Civilians

On October 20, 2011 and November 4, 2011, the undersigned investigator attempted to contact § 87(2)(b) and the other members of his family, § 87(2)(b) and § 87(2)(b), respectively, and left a voicemail message each time. The additional telephone number provided by § 87(2)(b) for § 87(2)(b) was incorrect. Between October 27, 2011 and November 17, 2011, three please call letters were sent to § 87(2)(b) and his family and were not returned to the CCRB by the United States Postal Service.

On January 1, 2012, contact was established with § 87(2)(b) via telephone. He was scheduled to appear at the CCRB on January 17, 2012. However, § 87(2)(b) failed to appear at the agency and did not contact the CCRB to cancel or reschedule. On January 19, 2012, a missed appointment letter was sent to § 87(2)(b) and was not returned to the CCRB by the United States Postal Service. On February 27, 2012, contact was established with § 87(2)(b) via telephone. He stated that he had already provided testimony with regard to this case with his attorney and did not wish to cooperate with the CCRB's investigation.

On October 31, 2011, a please call letter was sent to § 87(2)(b) but was returned to the CCRB by the United States Postal Service as undeliverable. § 87(2)(b) and § 87(2)(b) were unable to provide the CCRB with any contact information, and in some cases not even the legal names, § 87(2)(b) or the other witnesses and victims in this incident. A LexisNexis search for the other civilians involved in this incident yielded negative results. According to a search of the New York City Department of Correction website conducted on January 7, 2013, § 87(2)(b) is not currently incarcerated.

To date, none of the aforementioned civilians have contacted the CCRB with regard to this incident.

## **NYPD Statements:**

### **Subject Officer: OFFICER RICHARD GUERRIERI**

- *PO Guerrieri is a § 87(2)(b)-old white male with black hair and brown eyes. He is 5'8" tall and weighs 185 pounds.*
- *On August 10, 2011, PO Guerrieri worked from 2:00 p.m. to 10:35 p.m. He was dressed in uniform and assigned to Impact Patrol in the 70<sup>th</sup> Precinct with Sgt. Sharon Andrews and PO Rodolph Exil in marked van, # 8517.*

### **Memo Book**

At 7:30 p.m., 10-50 (disorderly group) at 1808 Beverly Road. At 7:32 p.m., summons number § 87(2)(b) in regards to vehicle parked in front of fire hydrant. NY plate # § 87(2)(b) blue 2008 Chrysler in front of 1808 Beverly Road. Asked male black to move vehicle from hydrant. Defendant did not move so the officer asked for his license and wrote a summons. Defendant did not want to take license or summons, so officer put both into car. Male in driver's seat and male in passenger seat jumped out causing public alarm and causing people to gather. At 7:46 p.m., one under from 1808 Beverly Road, § 87(2)(b) At 8:00 p.m., 10-84 (arrived) at the 70<sup>th</sup> Precinct. The remainder of PO Guerrieri's memo book pertains to the arrest processing of § 87(2)(b) (Encl. 11A-11D).

### **Summons**

Summons number § 87(2)(b) was issued to § 87(2)(b) on August 10, 2011 by PO Guerrieri in front of 1808 Beverly Road for parking in front of a fire hydrant (Encl. 12A).

### **Criminal Complaint Report and Online Booking Sheet (OLBS)**

The Criminal Complaint Report and OLBS completed for § 87(2)(b) by PO Guerrieri indicate that § 87(2)(b) was arrested on August 10, 2011 at 1808 Beverly Road for § 87(2)(b). The report narratives further indicated that § 87(2)(b) urged 15 or more people to engage in tumultuous and violent conduct of a kind likely to create public alarm. § 87(2)(b)'s actions blocked vehicular traffic. He further refused to comply with a lawful order from officers to disperse (Encl. 13A-13B & 14A-14C).

### **CCRB Statement**

On June 6, 2012, PO Guerrieri was interviewed at the CCRB (Encl. 15A-15C). His testimony is summarized below.

On August 10, 2011 at approximately 7:30 p.m., PO Guerrieri was driving the police van and pulled onto Beverly Road in the vicinity of East 18<sup>th</sup> Street in Brooklyn. PO Guerrieri observed a group of approximately 15-20 male and female teenagers in front of 1808 Beverly Road. PO Guerrieri saw that the crowd was gathered around and sitting on a car that was parked in front of a fire hydrant. PO Guerrieri pulled the van behind the car and honked the horn, but the car did not move. Other than the car parked in front of the fire hydrant, there was nothing else problematic about the situation.

PO Guerrieri and Sgt. Andrews exited the van and approached the driver's side of the car. PO Exil exited the RMP as well. There was only the driver and front passenger in the vehicle. PO Guerrieri asked the driver, identified as § 87(2)(b) for his identification for the purpose of writing him a summons for parking in front of the hydrant. PO Guerrieri described § 87(2)(b)'s demeanor as "mad" and "upset." PO Guerrieri was shown a photograph of § 87(2)(b) and recognized him to be the passenger in the vehicle. However, PO Guerrieri stated he did not have any interaction with § 87(2)(b). At no point did any of the officers order § 87(2)(b) or § 87(2)(b) out of the vehicle.

When PO Guerrieri returned to the vehicle with the summons, § 87(2)(b) refused to take his license or the summons. PO Guerrieri then placed the summons and driver's license on § 87(2)(b)'s



lap. At no time did PO Guerrieri throw the ID in a Frisbee like manner, or any other manner, causing it to strike § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) immediately exited the vehicle. § 87(2)(b) and § 87(2)(b) started screaming and yelling causing a crowd to gather around the officers. As such, Sgt. Andrews called for additional units. PO Guerrieri stated that the request for additional units was made at approximately 7:35 p.m. § 87(2)(b) got in PO Guerrieri's face. Sgt. Andrews instructed PO Guerrieri to "cuff him up" and bring him back to the station. § 87(2)(b) was under arrest for inciting a riot and disorderly conduct. PO Guerrieri stated that the action of § 87(2)(b) getting out of the car caused the crowd to grow to approximately 45 people, many of whom were yelling and videotaping the incident. Other than gathering around the officers, the crowd did not interfere with PO Guerrieri's ability to affect the arrest of § 87(2)(b)

§ 87(2)(b) resisted the officers a little bit (unspecified), but not swinging his arms or throwing punches. During this time, Sgt. Andrews and PO Exil were speaking with § 87(2)(b) but PO Guerrieri did not know the substance of that conversation. PO Guerrieri did not hear § 87(2)(b) complain of any injuries, to his eye or otherwise, nor did he hear him accuse PO Guerrieri of throwing the ID at his eye. PO Guerrieri did not hear § 87(2)(b) ask for his name and shield number.

PO Guerrieri was able to handcuff § 87(2)(b) place him in the van, and transport him back to the 70<sup>th</sup> Precinct stationhouse. PO Guerrieri frisked § 87(2)(b) pursuant to the arrest, prior to putting him in the police van. PO Guerrieri did not conduct any frisks of any other individuals at the location, nor did he witness Sgt. Andrews, PO Exil, or any other officers do so.

PO Guerrieri was not aware of an ambulance responding to the location. PO Guerrieri stated that Lt. Timothy Anderson and PO Michael Desposito were among the officers that responded to a request for additional units, but he could not testify as to what actions they took at the location. PO Guerrieri could not identify any other officers at the location. PO Guerrieri reiterated that once he placed § 87(2)(b) under arrest, he left the location. PO Guerrieri did not have any interactions with any other civilians at the location.

PO Guerrieri did not witness a vehicle stop at the location. He did not witness the arrests of § 87(2)(b) or § 87(2)(b). He did not witness any officer use any profanity towards any civilians at the location.

PO Guerrieri did not complete any reports for this incident other than the summons and arrest paperwork. No other officer communicated anything to PO Guerrieri about subsequent events after he left the location.

**Subject Officer: OFFICER LEON BATSON**

- *PO Batson is a § 87(2)(b)-old black male with black hair and brown eyes. He is 5'8" tall and weighs 170 pounds.*
- *On August 10, 2011, PO Batson worked from 2:00 p.m. until 10:35 p.m. He was dressed in uniform and assigned to Impact Auto # 2 in the 70<sup>th</sup> Precinct with PO Dimitri Yanovsky and PO Richard Conte in marked RMP # 4982.*

**Memo Book**

At 7:15 p.m., request for additional units at East 19<sup>th</sup> Street and Beverly Road. At 7:20 p.m., two under arrest by 70<sup>th</sup> Pct. Impact. At 7:30 p.m., 1 car stop at East 19<sup>th</sup> Street and Beverly Road. At 7:49 p.m., 1 under arrest by PO Conte. Defendant was observed driving eastbound on Beverly Road in a red 1995 Nissan Maxima with Pennsylvania plates with no registration. The vehicle had a broken right taillight. Defendant got out of the car and began getting irate and shouting that the officers only stopped him because he was black. Defendant caused public alarm and a crowd to gather around the RMP. Defendant was taken to the 70<sup>th</sup> Precinct stationhouse because the scene was unsafe. Defendant was found to have an active warrant (Encl. 18A-18B).

### **CCRB Statement**

On September 18, 2012, PO Batson was interviewed at the CCRB (Encl. 19A-19C). His testimony is summarized below.

On August 10, 2011, PO Batson and PO Conte responded to a request for additional units called by Lt. Timothy Anderson of the 70<sup>th</sup> Precinct at East 19<sup>th</sup> Street and Beverly Road in Brooklyn. PO Batson did not recall if there were any further details in the call. PO Yanovsky did not respond to the call because he was processing an arrest at the 70<sup>th</sup> Precinct stationhouse.

Upon arrival, PO Batson observed a large crowd of approximately 100 people in the street jumping around from car to car and yelling and screaming. PO Batson stated that there was garbage all over the street and that the crowd was completely blocking the flow of traffic.

There were several officers at the location, but other than Sgt. Sharon Andrews, PO Batson could not positively identify any other officers at the location. PO Batson could not testify as to what specific actions Sgt. Andrews took at the location.

PO Batson exited his RMP and conducted crowd control. He ordered people off of the cars and off of the street. PO Batson described the crowd as hostile. He stated that an unidentified female individual threw a McDonalds cup full of liquid at his RMP. PO Batson stated that the crowd's behavior made him fear for his safety.

PO Batson did not recognize photographs of § 87(2)(b) and § 87(2)(b). PO Batson did not have any one-on-one interactions with anyone at the location. He did not conduct and frisks or searches of any individuals, nor did he witness any other officer do so. When conducting crowd control, PO Batson did not say, "Get the fuck back," or "Get the fuck out of here," nor did he hear any other officer say as much.

Because of the dangerous nature of the situation, PO Batson was instructed to leave the location. PO Batson did not remember who told him to leave the location. PO Batson and PO Conte were leaving the location in their RMP, heading eastbound on Beverly Road.

As PO Batson was leaving the location, he observed a vehicle with Pennsylvania plates and illegally tinted windows, with a broken taillight. PO Batson pulled the vehicle over. PO Batson had made no observations of this vehicle or its operator at the initial incident location, prior to conducting the vehicle stop just around the corner.

The operator of the vehicle, identified by the CCRB as § 87(2)(b), exited the vehicle, and became loud and caused the crowd to gather around the RMP. § 87(2)(b) was unable to produce a driver's license or registration for the vehicle he was driving. Given that, and the dangerous conditions due to the hostile crowd, PO Conte arrested § 87(2)(b) and transported him back to the 70<sup>th</sup> Precinct stationhouse, where it was discovered that he had an active warrant. There were no other officers present for the stop and subsequent arrest of § 87(2)(b). Neither PO Batson or PO Conte conducted a search of § 87(2)(b)'s vehicle. PO Batson did not witness any other officer do so. Sgt. Andrews verified the arrest, but PO Batson could not testify as to any other actions she took.

PO Batson did not see an ambulance arrive at the location. None of the civilians he witnessed at the location appeared injured, nor did he hear any civilians complain of any injuries. No civilians asked PO Batson for any identifying information and he did not hear any civilians ask any other officers for identifying information.

No further information from any other officer was communicated to PO Batson regarding this incident.

### **Subject Officer: LIEUTENANT TIMOTHY ANDERSON**

- *Lt. Anderson is a § 87(2)(b)-old white male with brown hair and brown eyes. He is 5'6" tall and weighs 200 pounds.*

- *On August 10, 2011, Lt. Anderson worked from 2:00 p.m. until 10:35 p.m. He was dressed in uniform and assigned as the Impact Lieutenant in the 70<sup>th</sup> Precinct with PO Michael Desposito in RMP # 5233.*

### **Memo Book**

At 7:35 p.m., request for additional units at Beverly Road and East 18<sup>th</sup> Street. At 7:52 p.m., 1 female under arrest by PO Desposito. At 8:12 p.m., arrived at stationhouse (Encl. 20A-20C).

### **CCRB Statement**

On July 24, 2012, Lt. Anderson was interviewed at the CCRB (Encl. 21A-21B). His testimony is summarized below.

On August 10, 2011 at approximately 7:35 p.m., Lt. Anderson and PO Desposito responded to a request for additional units at Beverly Road and East 18<sup>th</sup> Street in Brooklyn. Lt. Anderson did not know made the request for additional units and did not know if there were any further details in the call.

Upon arrival, Lt. Anderson observed a large disorderly group of approximately 25 to 30 individuals, some of which had spilled over onto East 19<sup>th</sup> Street. There were approximately 6 to 8 officers already at the location. Lt. Anderson did not recall seeing Sgt. Sharon Andrews, PO Richard Guerrieri, PO Rodolph Exil, or PO Anthony Digerolamo at the location.

Lt. Anderson's primary focus at the location was near East 19<sup>th</sup> Street where PO Conte had arrested an individual, identified by the CCRB as § 87(2)(b). Lt. Anderson did not recognize photographs of § 87(2)(b) or § 87(2)(b) and he did not hear any individuals complain of any injuries to their eye. Lt. Anderson did not see an ambulance respond to the location.

Lt. Anderson did not witness the vehicle stop of § 87(2)(b) and did not witness the circumstances of his arrest. Lt. Anderson did not conduct a search of § 87(2)(b)'s vehicle, nor did he witness any other officer do so. Lt. Anderson stated that PO Leon Batson was present at the location and working with PO Conte, but he could testify as to any specific actions that PO Batson took.

A female individual, identified by the CCRB as § 87(2)(b) was interfering with the arrest made by PO Conte. § 87(2)(b) was getting in between the officers and § 87(2)(b) and then later opened the door of the RMP in which § 87(2)(b) had been placed. Lt. Anderson told § 87(2)(b) to stop interfering, but she was non-compliant and subsequently arrested by PO Desposito. § 87(2)(b) made statements to the officers to the effect of, "You can't arrest me, I'm a female."

Lt. Anderson never told anyone in the crowd to "Get the fuck back," or "Get the fuck out of here," nor did he hear any other officer say as much.

Following the arrest of § 87(2)(b) Lt. Anderson and PO Desposito left the location and went to 70<sup>th</sup> Precinct stationhouse. Lt. Anderson did not take any further action at the location.

### **Witness Officer: OFFICER RICHARD CONTE**

- *PO Conte is a § 87(2)(b)-old white male with brown hair and brown eyes. He is 6'2" tall and weighs 260 pounds.*
- *On August 10, 2011, PO Conte worked from 2:00 p.m. to 10:35 p.m. He was dressed in uniform and assigned to foot post 37, but then reassigned to Impact Auto in the 70<sup>th</sup> Precinct with PO Leon Batson in a marked RMP.*

### **Memo Book**

At 7:30 p.m., request for additional units at 1808 Beverly Road. At 7:49 p.m., one under, § 87(2)(b). The remainder of PO Conte's memo book refers to the arrest processing of § 87(2)(b) (Encl. 16A).

### **CCRB Statement**

On July 18, 2012, PO Conte was interviewed at the CCRB (Encl. 17A-17C). His testimony is summarized below.

On August 10, 2011 at approximately 7:30 p.m., PO Conte and PO Batson responded to a request for additional units at 1808 Beverly Road in Brooklyn. PO Conte stated that Sgt. Sharon Andrews put the request over the radio, but he could not recall if there were any further details in the call. Upon arrival, PO Conte observed a large group of people and also that PO Richard Guerrieri had an individual, identified by the CCRB as § 87(2)(b) under arrest.

The crowd was very loud and yelling at PO Guerrieri. The crowd was gathering around Sgt. Andrews and PO Anthony Digerolamo, who was also at the location. PO Conte therefore engaged in crowd control. Nothing was communicated to PO Conte regarding the circumstances of § 87(2)(b)'s arrest. PO Conte did not have any interaction with § 87(2)(b). PO Conte was shown a photograph of § 87(2)(b). PO Conte recognized him from being at the incident location, but PO Conte did not have any interaction with him.

PO Conte stated that § 87(2)(b) was complaining that an unidentified officer had hit him in the eye by throwing an ID at him. PO Conte did not witness any officer throw an ID and strike § 87(2)(b). PO Conte stated that § 87(2)(b) did not appear injured. PO Conte did not recall if an ambulance responded to the location.

§ 87(2)(b) who was among the crowd, had his vehicle double parked at the location. The officers instructed § 87(2)(b) to move his vehicle, but he was not compliant and refused to move. Eventually, § 87(2)(b) entered his car and drove through the crowd. PO Conte and PO Batson had returned to their vehicle and were intending to leave the location. However, as they were leaving, PO Conte observed that § 87(2)(b)'s car had a broken taillight, so PO Conte pulled him over in the vicinity of Beverly Road and East 19<sup>th</sup> Street.

PO Conte and PO Batson exited the police vehicle. PO Conte approached the driver's side of § 87(2)(b)'s vehicle and PO Batson approached the passenger side. PO Conte informed § 87(2)(b) that he pulled him over for having a broken taillight and asked him for his license and registration. § 87(2)(b) was not compliant, so PO Conte ordered him out of the vehicle and told him to stand at the rear of the vehicle. PO Conte did not conduct any frisk of § 87(2)(b) at this point.

§ 87(2)(b) would not stay by the vehicle and kept trying to move away. § 87(2)(b) was yelling to the crowd and sat on the rear of his car with his hands in his pockets. The aforementioned crowd had now gathered around the area where § 87(2)(b) had been pulled over. PO Conte instructed § 87(2)(b) to stand up and remove his hands from his pockets.

§ 87(2)(b) eventually provided his identification and PO Batson ran a warrant check. An active warrant was open for § 87(2)(b) so PO Conte placed him under arrest. § 87(2)(b) was also charged with § 87(2)(b). At this point, § 87(2)(b) was frisked and searched pursuant to a lawful arrest.

After § 87(2)(b) was arrested, PO Batson conducted a brief search of § 87(2)(b)'s vehicle, to ensure that there were no weapons in the vehicle. PO Conte did not specify the scope of PO Batson's search. The vehicle was then vouchered and taken to the precinct stationhouse.

A female, identified by the CCRB as § 87(2)(b) interfered with PO Conte effecting the arrest of § 87(2)(b). Lt. Timothy Anderson continually told § 87(2)(b) to step away, but she was not compliant. PO Michael Desposito subsequently arrested § 87(2)(b). Lt. Anderson continued to disperse the crowd. PO Conte did not hear Lt. Anderson or any other officer say, "Get the fuck back" or "Get the fuck out of here." PO Conte did not recall hearing any officer use any profanity during this incident.

PO Conte could not identify any other officers or commands that responded to the location.

**Witness Officers: SERGEANT SHARON ANDREWS AND OFFICERS RODOLPH EXIL, MICHAEL DESPOSITO, AND ANTHONY DIGEROLAMO**

- Sgt. Andrews is a § 87(2)(b)-old black female with brown hair and brown eyes. She is 6'2" tall.
- PO Exil is a § 87(2)(b)-old black male with black hair and brown eyes. He is 6'2" tall and weighs 185 pounds.
- PO Desposito is a § 87(2)(b)-old white male with brown hair and blue eyes. He is 5'8" tall and weighs 175 pounds.
- PO Digerolamo is a § 87(2)(b)-old white male with brown hair and hazel eyes. He is 5'7" tall and weighs 182 pounds.
- On August 10, 2011, Sgt. Andrews worked from 1:55 p.m. to 10:52 p.m. She was dressed in uniform and assigned as the Impact Sergeant in the 70<sup>th</sup> Precinct. PO Exil worked from 2:00 p.m. to 10:35 p.m. He was dressed in uniform and was assigned as Sgt. Andrews' operator with PO Richard Guerrieri in marked RMP # 2184. PO Desposito worked from 2:00 p.m. to 10:35 p.m. He was dressed in uniform and assigned to Impact in the 70<sup>th</sup> Precinct as Lt. Timothy Anderson's operator. They were in a marked Ford Explorer, # 5233. PO Digerolamo worked from 7:05 a.m. until 3:40 p.m. PO Digerolamo had a domestic violence arrest from the night before, so he was assigned to the DV Annex at Brooklyn Central Booking. PO Digerolamo was working alone and dressed in uniform.

**Memo Books**

Sgt. Andrews' memo book indicates that at 7:30 p.m., there was a 10-50 (disorderly group) at 1808 Beverly Road and at 7:46 p.m., there was one under for § 87(2)(b) by PO Guerrieri. PO Exil's memo book indicates that at 7:30 p.m., one group was stopped in front of 1808 Beverly Road. Heard after a/o issued summons, defendant said in Creole, "say the ID hit you in your eyes." § 87(2)(b) at 7:46 p.m., one under. At 8:00 p.m., 10-84 (arrived) at 70<sup>th</sup> Precinct stationhouse. PO Desposito's memo book indicates that at 7:35 p.m., he responded to a request for additional units at Beverly Road and East 18<sup>th</sup> Street. At 7:50 p.m., female obstructing governmental administration by coming in between public servant conducting a lawful arrest. Female was shouting and yelling in the middle of the street with arms flailing. Assembled with 12 + people, inciting a riot against the officers while obstructing vehicular traffic, causing public alarm. At 7:52 p.m., one under. At 8:12 p.m., arrived at stationhouse. The remainder of PO Desposito's memo book pertains to the arrest processing of § 87(2)(b). PO Digerolamo did not have any memo book entries pertaining to this incident. His memo book indicated that on August 10, 2011, he worked from 7:05 a.m. until 3:40 p.m. (Encl. 22A-22D, 26A-26D, 28A-28C, & 30A-30B).

**Criminal Complaint Report and Online Booking Sheet (OLBS)**

The Criminal Complaint Report and OLBS prepared by PO Desposito for § 87(2)(b) indicates that § 87(2)(b) was arrested on August 10, 2011 at East 19<sup>th</sup> Street and Beverly Road for § 87(2)(b).

The report narratives indicate that § 87(2)(b) intentionally obstructed a public servant from making a lawful arrest, urged 12 or more people to engage in violent conduct causing public alarm and blocking vehicular traffic. § 87(2)(b) further refused to comply with a lawful order from officers to disperse (Encl. 23A-23B & 24A-24C).

**CCRB Statements**

On June 28, 2012, Sgt. Andrews was interviewed at the CCRB (Encl. 29A-29C). On June 27, 2012, PO Exil and PO Desposito were interviewed at the CCRB (Encl. 27A-27C & 25A-25B). On August 14, 2012, PO Digerolamo was interviewed at the CCRB (Encl. 31A-31B). § 87(2)(g)

§ 87(2)(g) PO Digerolamo testified that he was not present for this incident.

PO Exil stated that when the summons was issued to § 87(2)(b) by PO Guerrieri, he heard § 87(2)(b) say to § 87(2)(b) in Creole, "Say the ID hit you in the eye." PO Exil confirmed that he spoke Creole. PO Exil did not see PO Guerrieri throw an ID into § 87(2)(b)'s vehicle and strike § 87(2)(b) in the eye, nor did he see any similar action. § 87(2)(b) never made any accusation that an ID hit him in the eye. Sgt. Andrews and PO Desposito did not witness as much.

Sgt. Andrews, PO Exil, and PO Desposito did not conduct or witness frisks of any individuals at the location outside the scope of a lawful arrest. None of the aforementioned officers witnessed an officer use any profanity toward any civilians, conduct a vehicle stop, a vehicle search, or hear any civilians ask for identifying information from any officer. None of the witness officers recall an ambulance responding to the location or any civilian complaining of any injuries.

## **Medical Records**

### **Ambulance Call Report**

The ambulance call report prepared for § 87(2)(b) on August 10, 2011 indicates that there was no bleeding or swelling. § 87(2)(b) denied headache, dizziness, nausea. All other vital signs were listed as normal (Encl. 32A-32Q).

### **Hospital Records**

On August 10, 2011, § 87(2)(b) was treated at § 87(2)(b). The ophthalmology report indicates that § 87(2)(b) had a corneal abrasion and was given a seven day prescription for Oflox (Encl. 32A-32Q).

## **NYPD Documents**

### **SPRINT**

SPRINT report number W12582 from August 10, 2011 indicates that at 7:36 p.m. at 1808 Beverly Road, the Impact Sgt. from the 70<sup>th</sup> Precinct called a 10-85 (request for additional units). At 7:47 p.m., there was one under arrest. The SPRINT report further indicates that the Emergency Service Unit was not necessary (Encl. 34A-34C).

### **Command Log**

The Command Log from the 70<sup>th</sup> Precinct from August 10, 2011, indicates that § 87(2)(b) was logged into the stationhouse at 7:55 p.m. by PO Guerrieri. § 87(2)(b)'s physical and mental appearance was listed as appearing normal. § 87(2)(b) was logged into the stationhouse at 7:55 p.m. by PO Conte. § 87(2)(b)'s mental and physical conditions are listed as appearing normal. § 87(2)(b) was logged into the stationhouse at 8:00 p.m. by PO Desposito. Her mental and physical conditions are listed as appearing normal. § 87(2)(b) and § 87(2)(b) were transported to Brooklyn Central Booking in vehicle number 8517 at 1:30 a.m. on August 11, 2011 (Encl. 36A-36L).

### **Stop, Question, and Frisk Log**

The Stop, Question, and Frisk Log from the 70<sup>th</sup> Precinct on August 10, 2011 was negative for any reports pertaining to this incident (Encl. 37A-37H).

## **Summons/Arrest for Incident and Disposition**



## Conclusion

### Identification of Subject Officers

- PO Guerrieri, PO Batson, and Lt. Anderson, acknowledged being at the incident location. They fit the general descriptions provided by the civilians in this case and their testimony regarding their actions at the location is consistent with the circumstances under which the allegations occurred.

### Investigative Findings and Recommendations

#### Allegation Not Pleaded

§ 87(2)(g)

#### Allegation A: Force – Officer Richard Guerrieri struck § 87(2)(b) with an object.

§ 87(2)(b) alleged that PO Guerrieri threw an ID card in a Frisbee like manner that subsequently struck him in the eye. § 87(2)(b) and § 87(2)(b) corroborated the allegation made by § 87(2)(b). PO Guerrieri denied throwing an ID and striking § 87(2)(b) and no other officer saw him do so. PO Exil indicated that § 87(2)(b) encouraged his brother to fabricate the alleged action. § 87(2)(b) medical records indicate that he had an abrasion to his right cornea for which he received treatment. Even though PO Guerrieri denied throwing the ID and striking § 87(2)(b) and the fact that no other officer stated that they saw him do so, both § 87(2)(b) and § 87(2)(b) corroborate § 87(2)(b) allegation. Also, even though he did not witness an ID being thrown at § 87(2)(b) PO Conte testified that § 87(2)(b) was complaining that an officer threw an ID at his eye. Furthermore, the ambulance call report indicates that § 87(2)(b) was treated for an eye injury immediately following the incident and his hospital records from the date of incident indicate an abrasion to his cornea. According to PO Guerrieri and officer testimony, § 87(2)(b) was simply sitting in the passenger seat of the vehicle and was in no manner threatening the officers. He was not under arrest at any time during this incident.

According to Patrol Guide Procedure 203-11, only the amount of force necessary to overcome resistance may be used to affect an arrest (Encl. 1A-1B).

§ 87(2)(g)

#### Allegation B: Abuse of Authority – Officer Richard Guerrieri refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that during the course of this incident, he asked PO Guerrieri for his name and shield number and that PO Guerrieri ignored his request. PO Guerrieri denied hearing such a request and no other officer heard said request. No other civilian corroborated § 87(2)(b) allegation.

§ 87(2)(g)



§ 87(2)(g)

§ 87(2)(g)

**Allegation C: Abuse of Authority – Officer Leon Batson searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) alleged that after he was pulled over by PO Batson and PO Conte, PO Batson proceeded to search his vehicle. PO Conte stated that after § 87(2)(b) was placed under arrest, PO Batson conducted a brief search of his vehicle to ensure that there were no weapons present. PO Batson denied searching the vehicle and other than PO Conte, no other officers testified that he did so. There is no civilian testimony to corroborate § 87(2)(b)'s allegation.

§ 87(2)(g)

§ 87(2)(g)

**Allegation D: Discourtesy – Lieutenant Timothy Anderson spoke rudely to individuals.**

§ 87(2)(b) alleged that while Lt. Anderson was conducting crowd control, he told the individuals in the crowd to “Get the fuck back,” and “Get the fuck out of here.” Lt. Anderson denied saying the aforementioned phrases and no other officer heard him do so. No other civilian corroborated § 87(2)(b)'s allegation.

When an officer uses profanity during a stressful encounter to secure a civilian's cooperation or for other legitimate law enforcement ends, the profanity does not rise to the level of misconduct. Police Department v. Dukes, OATH Index Nos. 1137-39/00 (2000) (Encl. 1C-1K).

§ 87(2)(g)

§ 87(2)(g)

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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date